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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.40598 of 2020 (O&M)
Decided on: 10.12.2021

Surjit Singh @ Jeetan

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Talim Hussain, Advocate
for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.0014 dated 29.06.2018, for offence punishable under Sections 21 and 30 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') registered at Police Station State Special Operation Cell, Fazilka, District Intelligence Wing (CID), Fazilka.

The earlier one was dismissed as withdrawn on 27.08.2019.

Counsel for the petitioner has submitted that now the petitioner is in custody for the last 03 years and 05 months and still the case is at the stage of recording the prosecution evidence.

Counsel for the petitioner has argued that as per the allegations in the FIR, the police party on receiving a secret information

that the petitioner is habitual of smuggling Heroin from Pakistani smugglers on mobile internet phone and brings Heroin from Indo-Pak Border (BSF) fencing in the area of Ferozepur along with the land owners under the garb of doing labour work. Thereafter, the FIR was registered and the petitioner was arrested from his home and on the basis of the disclosure statement 2.770 Kgs of Heroin was recovered from the fields of one Paramjit Singh. It is further submitted that one of the moot point involved in this petition is whether the petitioner can be held liable to be in conscious possession of the recovery effected from the open land belonging to Paramjit Singh. It is also argued that the petitioner is not a habitual offender as this is the first case and as on today he is in custody for the last more than 03 years and due to COVID-19 situation, the trial is delayed substantially.

Counsel for the petitioner has also submitted that again it will be a matter of trial whether Section 42 of the NDPS Act has been properly complied with or not. It is further argued that out of 12 PWs, 08 PWs have been examined before the trial Court and some of the statements of the prosecution witnesses is placed on record and a perusal of the statement of PW-2 Shamsheer Singh, Assistant Commandant, BSF, show that the recovery was effected from the land of Paramjit Singh son of Jarnail Singh resident of village Bhane Wala.

Counsel for the State has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that though, it is stated in the secret information that the petitioner is habitual of dealing in narcotic substance, however,

he is not involved in any other case prior to registration of this case; the petitioner is in custody for the last 03 years, 05 months and 06 days; out of 12 PWs only 08 PWs have been examined and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

10.12.2021
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No